

Claims 1-14 and 43-56 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed invention. Applicant respectfully traverses that rejection.

Applicant submits that the application, as filed, conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, Applicant was in possession of the invention as originally claimed. For example, page 5, line 25, through page 8, line 6, and Figure 2, of the present specification support the claimed invention.

Moreover, the “Guidelines for Examination of Patent Applications Under the 35 U.S.C. 112, ¶ 1, ‘Written Description’ Requirement” state that (i) “rejection of an original claim for lack of written description should be rare”; (ii) “[i]nformation which is well known in the art need not be described in detail in the specification”; and (iii) “the examiner must set forth express findings of fact ... which support the lack of written description conclusion. These findings should: ... (2) Establish a *prima facie* case by providing reasons why a person skilled in the art at the time the application was filed would not have recognized that the inventor was in possession of the invention as claimed in view of the disclosure of the application as filed.” 66 Fed. Reg. 1099, 1105 and 1107 (Jan. 5, 2001).

Applicant submits that the claimed features are adequately described in the specification as originally filed and that the Examiner has not articulated a *prima facie* case to the contrary. Accordingly, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 112, first paragraph.

Claims 1-56 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,313,245 (Konishi).

The independent claims of the present application each recite selecting at least one first measured distance-value by excluding second measured distance-values that are not smaller than a predetermined distance value.

Konishi is directed to an automatic focusing device. The Office Action states that the features of the present invention are met by the MPU and Drive CKT shown in Figure 2 of that patent. The discussion in Konishi of Figures 1 and 2 at, in particular, col. 11, lines 45-62, states that if LF (the largest distance value) is infinite, LF is excluded. However, the other distance values (LM and LN) are not subject to such a judgement, and consequently, are not subject to possible exclusion. Therefore, the system described in Konishi would not exclude more than one value. In the present invention, measured distance-values that are not smaller than a predetermined value are excluded.


Accordingly, Applicant submits that Konishi fails to describe or suggest at least the features of selecting at least one first measured distance-value by excluding second measured distance-values that are not smaller than a predetermined distance value, as recited in independent Claims 1, 8, 15, 22, 29, 36, 43, and 50.

The remaining claims in the present application are dependent claims which depend from the independent claims discussed above, and thus are patentable over the applied patent for the reason discussed above with respect to those independent claims. In addition, each recites features of the invention further distinguishing it from the applied patent. Applicant requests favorable and independent consideration thereof.

Applicant believes the present remarks are responsive to each of the points raised by the Examiner in the Official Action, and submits that the present application is in allowable form. Favorable consideration of the claims and passage to issue of the present application at the Examiner's earliest convenience earnestly are solicited.

Applicant's undersigned attorney may be reached by telephone in our Washington, D.C. office at (202) 530-1010. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,



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